

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

No. 23-376 T
(Judge Molly R. Silfen)

CARL BILDNER AND LINDA BILDNER,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ANSWER

Defendant the United States of America, through its attorneys, hereby answers Plaintiffs' Complaint (Dkt. 1). Any allegation not specifically admitted below is denied. In response to the particular paragraphs in Plaintiffs' Complaint, the United States further:

1. Lacks knowledge or information sufficient to form a belief as to the truth of Paragraph 1.
2. Admits the United States is the defendant in this case.
3. Admits that to the extent jurisdiction exists in this case that jurisdiction would be under 28 U.S.C. § 1491.
4. States that Paragraph 4 is merely Plaintiffs' characterization of their suit, to which no response is required.
5. Admits Plaintiffs filed a tax return with the Internal Revenue Service (IRS) for tax year 2016 on or about October 17, 2017.

6. Admits that on March 18, 2019, the IRS determined a deficiency for Plaintiffs' tax year 2016, but denies that a Form 4549 was filed with the Complaint as Exhibit A. Rather, the Exhibit filed with the Complaint consists of Plaintiffs' Form 1040X and accompanying "Statement and Explanation for Form 1040X Tax Year 2016."

7. Admits the IRS determined Plaintiffs owed a \$282,441.00 income tax deficiency for tax year 2016 and a related \$56,488.20 penalty per I.R.C. § 6662(a).

8. Admits the taxpayer identification number stated in Paragraph 8 but otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations therein.

9. Admits an IRS audit increased Plaintiffs' taxable income for tax year 2016 by disallowing business expense deductions claimed for Bildner Equity Corp. (BEC) but denies this was done "erroneously."

10. Admits an IRS audit increased Plaintiffs' taxable income for tax year 2016 by disallowing business expense deductions claimed for BEC. Otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10.

11. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.

12. Admits the IRS's records reflect receipt of a \$370,957.35 payment by Plaintiffs on April 10, 2019. Otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Admits the allegations in paragraph 13.

14. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14.

15. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16.

17. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17.

18. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18.

19. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19.

20. States that Paragraph 20 consists of legal conclusions to which no response is required. To the extent Paragraph 20 is construed to contain purely factual claims, the United States lacks knowledge or information sufficient to form a belief as to the truth of the allegations therein.

21. Lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations in Paragraph 21. Otherwise states that Paragraph 21 contains legal conclusions to which no response is required. To the extent any response is required, the United States denies the allegations therein.

22. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

23. Admits that after an audit the IRS disallowed business expense deductions Plaintiffs claimed for BEC because the IRS determined those expenses were allegedly incurred by the separate entity Bildner Capital Corp (BCC). Otherwise states that it lacks knowledge or

information as to what business expenses were in fact paid by BEC, BCC or any other entity Plaintiffs claim to have controlled in tax year 2016.

24. Admits an IRS audit reduced Plaintiffs' itemized deductions for tax year 2016 by \$22,282.00 but denies the IRS's actions were "erroneous."

Count 1

25. Incorporates by reference its responses to Paragraphs 1–24 of Plaintiffs' Complaint.

26. States that Paragraph 26 is merely Plaintiffs' characterization of their suit, to which no response is required.

27. Denies the allegations in Paragraph 27.

28. Admits the IRS disallowed business expense deductions Plaintiffs claimed for BEC because the IRS determined those expenses were allegedly incurred by the separate entity BCC. Lacks knowledge or information sufficient to form a belief as to whether that was the "sole basis" for disallowance but denies that the IRS's position was "without support."

29. Denies the allegations in Paragraph 29.

30. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30.

31. States that Paragraph 31 consists of legal conclusions to which no response is required. To the extent any response is required, the United States denies the allegations therein.

32. States that Paragraph 32 consists of legal conclusions to which no response is required. To the extent any response is required, the United States denies the allegations therein.

33. Admits the IRS assessed a \$56,488.20 accuracy-related penalty on Plaintiffs for tax year 2016 but denies it did so "erroneously."

34. Lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations in Paragraph 34. Otherwise states that Paragraph 34 consists of legal conclusions to which no response is required. To the extent any response is required, the United States denies the allegations therein.

35. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35.

36. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36.

37. Denies the allegations in Paragraph 37.

No response is necessary as to the remainder of the complaint because it is a prayer for relief. The United States denies all allegations not otherwise specifically admitted, qualified, or denied, and respectfully requests that the United States be awarded costs and such other relief as appropriate.

Dated: July 14, 2023

Respectfully submitted,

/s/ Alex Schulman

ALEX SCHULMAN

Trial Attorney

U.S. Department of Justice

Tax Division

Court of Federal Claims Section

Post Office Box 26

Ben Franklin Post Office

Washington, D.C. 20044

Telephone: (202) 514-0456

Fax: (202) 514-9440

Alexander.Schulman@usdoj.gov

DAVID A. HUBBERT

Deputy Assistant Attorney General

DAVID I. PINCUS

Chief, Court of Federal Claims Section

G. ROBSON STEWART
Assistant Chief

/s/ G. Robson Stewart
Of Counsel